IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO.27 OF 2004

Nasik Workers Union. .. Petitioner
Vs.
M/s.Trambak Rubber Industries
Limited and Others. .. Respondents
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Shri Bhavesh Parmar and Ms Vijaya Jagtap for the petitioner.

Shri J.P.Cama i/b M/s.RMG Law Associates for respondent No.1.
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CORAM : R.M.S.KHANDEPARKAR, J

DATED : 21st December, 2004.

P.C.

1. Heard the learned advocates for the parties. Perused the records.

2. The grievance of the petitioner relates to the non-compliance of the order dated 23rd February, 2001 passed by the learned Single Judge of this Court in Writ Petition No.83 of 2000 and confirmed by the order of the Apex Court dated 16th July, 2003 in Civil Appeal No.8489 of 2001.

3. The contention of the petitioner is that

inspite of the direction by this Court and confirmed by the Apex Court for reinstatement of the workers in the service, the respondents have not complied with the said direction except reinstating only 23 workers. According to the petitioner, there are about 125 workers who were required to be reinstated but the respondents have not complied with the said order except in relation to the 23 workers, out of the said 125 workers.

4. The contention of the respondent is that the order of the High Court directed the reinstatement of the 29 workmen and the same is evident from the fact that the order relates to the Complaint NO.728 of 1989 which was subsequently registered as Complaint No.21 of 1989 which relates to 29 workers and the respondents have already employed 23 employees out of the said 29 employees and in relation to the remaining six employees, the advertisement has already been issued by the respondents calling upon those workmen to attend their duties, however, they have not approached the respondents till this date.

5. The order passed by this Court in the Writ Petition No.83 of 2000 was to the effect that "in the circumstances, the writ petition is allowed. The

impugned order passed by the Industrial Court is quashed and set aside. The workers to whom the petition and complaint U.L.P. No.728 of 1989 relates will be entitled to reinstatement in the service of the respondent." After disposal of the appeal by the Apex Court, it appears that there was some settlement between the parties on 3rd August, 2003 whereby 23 workers were allowed to be joined to their duties and as regards the remaining employees, it was agreed that "as per the say of the Management Representative, they have prepared the Attendance Cards of 23 workmen and today they are ready to issue the said Attendance cards to the concerned workmen and the management is also ready to allow the said 23 workmen to resume their duties. The said list of the workers is to receive by them on 7/8/2003. Thereafter by making the verification of the list of the workers, the remaining workers will be allowed to report their duties." It is the case of the respondents that consequent thereto, a notice was issued in a daily newspaper on 8th August, 2003 calling upon the workmen to attend to their duties by 17th August, 2003. However, no workmen reported to their duties. On the other hand, it is the contention of the petitioner that consistent efforts were made to convince the respondents to employ the remaining 102 workmen without any fruitful

result.

6. Undoubtedly, the original Complaint NO.728 of 1989 was subsequently registered as Complaint No.21 of 1989 and the said complaint related to 29 workmen. The prayer clause in the said complaint itself was to the effect that "direct the respondents to reinstate the concerned 29 workmen with continuity of service and full back wages from 23-6-89 whose names are given in Annexure "A" to the complaint."

7. As already seen above, the order of the learned Single Judge specifically refers to the Complaint No.728 of 1989. Undoubtedly, it also states that the workmen to whom the petition and the complaint No.728 of 1989 relates would be entitled for reinstatement in the service. It is also a matter of record along with the said complaint No.728 of 1989, two more complaints were filed. However, there is no reference to those complaints in the order passed by the learned Single Judge of this Court. It appears that there was some confusion in the mind of the petitioner itself about the exact number of the workmen as to who would be covered by the said order and that is apparent from the order of the Apex Court wherein there is a reference to the number of 72

workmen followed by the Question Mark. It is further evident from the letter dated 29th July, 2003 by the petitioner addressed to the respondents wherein the list annexed to the said letter refers to 53 workmen. Obviously, while the complaint related to 29 workmen, the representation appears to have been made before the Apex Court in relation to the 72 workmen. There is no specific mention to the number of the workmen in the order of the High Court. The order passed by the Apex Court refers to 72 workmen followed by a Question Mark. The letter dated 29th July, 2003 refers to 53 workmen. The settlement arrived at between the parties on 3rd August, 2003 confirms the reinstatement of 23 workmen but does not disclose the remaining number of the workmen, nor it discloses the number of workmen stated to have been disclosed in the list of workmen allegedly submitted to the Management at the time of the said settlement, and coupled with this, it is a matter of record that the respondents had issued the public advertisement calling upon the workmen to attend their duties by 17th August, 2003, yet no workmen had reported except 23 workmen, which were reinstated pursuant to the understanding dated 3rd August, 2003 in terms of the order passed by this Court and the Apex Court. In the background of these facts, therefore, though the order of the High Court

specifically refers to only one complaint which referred to 29 workers, the petitioner is now seeking to raise dispute about the exact number of workmen.

7. Undisputedly, no clarification has been sought for by the petitioner in relation to the order passed by the learned Single Judge of this Court as regards the number of workmen which are required to be reinstated. In the circumstances, therefore, it is not possible to proceed against the respondents for contempt of Court on the ground of violation of the order of the Court. It was necessary on the part of the petitioner to disclose that there is willful disobedience of the order passed by the High Court and confirmed by the Apex Court. Once the records nowhere disclose the exact number of workmen which are required to be reinstated in the service, certainly it cannot be said that there is any violation as such in relation to the order passed by the High Court and for that matter, the violation must be willful. Being so, there is no case for proceeding against the respondents for contempt of Court. Hence, the contempt petition is hereby rejected. The Notice stands discharged.